IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18326 of 2004

Between:

1 Sri Kanaka Durga Dalitha Municipal Sanitary Labour Contract Paraspara Sahayaka Sahakar Sangam Ltd (Mutually Aided Co-op Society) Kothawada, Warangal (Regd No. 2003/643) rep by President P. Kumara Swamy, S/o Momraiah H. No. 11-25-1218, Kothawada, Warangal
2 SRi Laxmi Municipal Sanitary Labour Contract Paraspara Sahayaka Sahakar Sangam Ltd., (Mutually Aided Co-op. Society, Hanamkonda, (Regd. No. AMC/WGL/DCO/2002/440), rep by President K. Prasad,
S/o Saraiah Lashkar Singam Hanmakonda, Warangal District
3 Bhagath Singh Dalith Municipal Sanitary labour Contract Parasapara Sahayaka Sahkar Sangam Ltd. (Mutually Aided Co-op. Society) Mattewada, Warangal (Regd., No. AMC/WGL/DCO/2002/338), rep by
President M. Samba Murthy S/o Lingaiah Mattewada, Warangal, Warangal District 4 Ambedakar Harizan Labour Contract Coop. Society, Naimnagar, Hanam konda (regdNo. 9745/99) Rep By President-M. Babu Rao S/o Komaraiah Naimnagar, hanamkonda, Warangal District
5 Dalitha Municipal Sanitary Labour Contract Paraspara Sahayaka Sahakar Sangam Ltd., (Mutually Aided Co-op. Society, Laxmipuram,Warangl(Regd. No. AMC/WGL/DCO/2002/339), rep by President R. Bhaskar
S/o Danial Laxmipuram, Warangal Warangal District
6 Harijana Labour Coop. Society Ltd., Gondla Singaram Sundraiah Nagar, Hanamkonda (Regd. No. 862TT/1990) rep by President G. Sambaiah S/o Yellaiah Condla Singaram, Sundaraiah Nagar, Hanamkonda
7 Sri Sai Bhadrakali Dalitha Municipal Sanitary Labour Contrac Paraspara Sahayaka Sahakar Sangam Ltd., (Mutually Aided Co-op. Society, Pothana Nagar, Warangal(Regd No. AMC/WGL/DCO/2002/335), rep by President S. Sathyanarayan S/o Samuel Pothana Nagar, Warangal
8 Shiva Sai Dalitha Municipal Sanitary Labour Contract Paraspara Sahayaka Sahakar Sangam Ltd., (Mutually Aided Co-op. Society Rajeev Colony, Warangal (Regd. NO. AMC/WGL/DCO/2004/623) rep by Kummari Sadanandam, S/o Ramaswamy
9 Babu Jagjeevan Ram Municipal Labour Contract Paraspara Sahayaka Sahakar Sangam Ltd., (Mutually Aided Co-op. Society, (Regd No. 648/2003 rep

by President-Kummari Sadanandam, S/o Yellaiah H. NO. 11-23-1939, L.B. Nagar, Ekashila nagar, Warangal District
10 Dalitha Labour Contract Coop. Society Ltd., Kasibugga Warangal (Regd. No. 1030/2001, rep by President S. Bhaskar S/o Samuel Kasibugga, Warangal, Warangal District

..... PETITIONER(S

AND

1 The Commissioner, Warangal Municipal Corporation, Warangal District
2 The Government of Andhra Pradesh, rep by Secretary, Municipal Administration & Urban Development(G2) Department, Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or Writ specially Writ of Mandamus declaring the Tender Notification No. F1/3129/2003-04 dated 26-09-2004 issued by the 1st Respondent as illegal, arbitrary and contrary to the G.O.Ms. No. 30, M.A. dated 18-01-2000 and G.O.Ms. No. 581, M.A. 06-11-1996 and also violative of Article 14 and 21 of the Constitution of India

Counsel for the Petitioner : MR. P.PANKAJ REDDY

Counsel for the 1st respondent : Mr. K.Venugopal Reddy, SC for Municipal Corporation.

Counsel for the Respondent No.2 : GP FOR MUNCIPAL ADMN. & URBAN DEV.

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.18326 OF 2004

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ORDER :

The petitioners seek a Writ of Mandamus declaring the tender notification dated 26-9-2004 issued by the 1st respondent - Commissioner, Warangal Municipal Corporation as arbitrary and illegal and contrary to G.O.Ms.No.30, Municipal Administration & Urban Development (G2) Department, dated 18-01-2000 and G.O.Ms.No.581, Municipal Administration & Urban Development (G2) Department, dated 6-11-1996 and also violative of Articles 14 and 21 of the Constitution of India.

All the petitioners claim to be the societies registered under the Societies Registration Act consisting of retired public health workers belonging to the scheduled castes and their children as members. It is stated that the members of the petitioner societies have been eking out their livelihood by executing the sanitation works for the last 30 years. The petitioners are aggrieved by Condition No.6 of the impugned tender notification dated 26-9-2004 which states that out of the 25 units, 6 units are reserved for Scheduled Caste Societies, 7 units are reserved for DWACUA groups and remaining 12 units will be allotted by inviting tenders. The contention of the petitioners is that the proposal to allot 7 units to the DWACUA groups is contrary to G.O.Ms.No.30, dated 18-1-2000 as well as G.O.Ms.No.581, dated 6-11-1996. It is alleged that the DWACUA groups have no experience in sanitation works and there are also no instructions from the Government to allot the works to them on nomination basis. It is alleged that under the impugned tender notification, the works are being allotted to the DWACUA groups at the instance of some political persons keeping in view the ensuing elections to the Corporation. Though the petitioners made representation dated 28-9-2004 requesting the first respondent to allot 50% of the works, there is no response from the 1st respondent. Hence, this writ petition.

On behalf of the respondent Corporation, a counter-affidavit has been filed denying all the allegations made by the petitioners. It is further stated that on the basis of the instructions of the Government of India, the Government of A.P. issued a memo dated 24-12-2002 deciding to entrust sanitation and other works to DWACUA groups in all the Municipalities / Municipal Corporations fixing certain guidelines. It

is also stated that DWACUA groups are also formed by the retired public health workers who are experienced in sanitation works and therefore allotment of works to the said group cannot be said to be either arbitrary or illegal.

I have heard the learned Counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents and perused the material on record.

It is to be noted that G.O.Ms.No.581, dated 6-11-1996 prescribes certain modalities for the purpose of entrustment of sanitation works in Municipalities / Municipal Corporations to the Societies formed by the Retired Public Health Workers or their dependents and Badli Workers. As a matter of fact, under Rule 3(2) of the A.P. Municipality Tender Rules, 1967 as substituted by G.O.Ms.No.477, M.A., dated 28-8-1999, it was provided that 15% of the works may be reserved for entrustment to the Labour Contract Societies formed of Scheduled Castes, Scheduled Tribes and Vadderas and the Individuals belonging to the said communities who happened to be unemployed or retrenched engineers. Subsequently, G.O.Ms.No.30, dated 18-1-2000 was also issued under which the Municipalities were obligated to entrust a portion of the sanitation work to the societies formed by the sanitary workers' unions without participating in the tenders so that efficiency in sanitation may be improved. This Court in D.L.C. CO-OP. SOCIETY v. COMMR., L.B.NAGAR MUNICIPALITY, R.R. DISTRICT having considered the scope of Rule 3(2) of the Rules as well as G.O.Ms.No.30, dated 18-1-2000 held that an obligation is cast on the Municipality to reserve at least 15% of the sanitation works for entrustment to the Labour Contract Societies.

In the case on hand, admittedly the petitioner societies have been executing the sanitary works as per G.O.Ms.No.30, dated 18-1-2000. Even under the impugned tender notification dated 26-9-2004 out of the 25 units six units were admittedly allotted to the Scheduled Caste Societies which is in conformity with G.O.Ms.No.581, dated 6-11-1996, G.O.Ms.No.30, dated 18-1-2000 as well as Rule 3(2) of the Rules. However, the only grievance of the petitioner appears to be that the 1st respondent ought not to have allotted seven units to DWACUA Groups and the same is not in conformity with G.O.Ms.No.30, dated 18-1-2000 as well as

G.O.Ms.No.581, dated 6-11-1996.

As already observed above, since out of the 25 units, six units were allotted in favour of the Scheduled Caste Groups, it works out more than 15% of the works as required under Rule 3(2) of the Rules. Hence, it cannot be said that the 1st respondent has acted in contravention of the statutory rule. The 1st respondent in the counter-affidavit has categorically stated that the Government of A.P. has taken a decision to entrust sanitation and other works to DWACUA Groups also and as a matter of fact the said groups are also formed by Retired Public Health Workers who are experienced in sanitation works. Nothing has been placed before this Court to show allotment of a portion of the work in favour of such groups is in violation of any statutory provision. The petitioners also failed to substantiate their claim that they should be allotted 50% of the works notified under the impugned tender notification.

The Writ Petition is devoid of any merit and absolutely no case is made out warranting interference of this Court under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed. No costs.

24th June, 2005.

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To

1 The Commissioner, Warangal Municipal Corporation, Warangal District
2 The Government of Andhra Pradesh, rep by Secretary, Municipal Administration & Urban Development(G2) Department, Secretariat, Hyderabad

3. Two CCs to G.P. for Municipal Administration & Urban Development, High Court of AP Bldgs, Hyderabad (OUT).

4. Two CD copies.